

SERVICE DATE - OCTOBER 23, 2000

SURFACE TRANSPORTATION BOARD

DECISION

STB Docket No. AB-33 (Sub-No. 145X)

UNION PACIFIC RAILROAD COMPANY--ABANDONMENT
EXEMPTION--IN STANISLAUS COUNTY, CA

Decided: October 18, 2000

Union Pacific Railroad Company (UP) filed a notice of exemption under 49 CFR 1152 Subpart F--Exempt Abandonments and Discontinuances of Service and Trackage Rights to abandon a 5.62-mile line of railroad over the Tidewater Subdivision from milepost 26.43 near McHenry to milepost 32.05 in Modesto, in Stanislaus County, CA. Notice of the exemption was served and published in the Federal Register on April 14, 2000 (65 FR 20263-64).¹ On May 15, 2000, a decision and notice of interim trail use or abandonment (NITU) was served, that reopened the proceeding authorizing a 180-day period for the City of Modesto (City) to negotiate an interim trail use/rail banking agreement with UP for a portion of the right-of-way between milepost ± 26.43 (a point 30 feet north of the north line of the proposed Pelandale Expressway) and milepost ± 30.63 (at Needham Street), a distance of 4.2 miles. The 180-day period under the NITU is scheduled to expire on November 12, 2000.

On October 13, 2000, the City filed a request for a 180-day extension of the negotiation period until May 12, 2001.² The City states that it has provided UP with a draft agreement outlining proposed terms and conditions for rail banking, and that the extension is necessary in order to allow adequate time for UP to complete its review of the draft and for the parties to complete a final agreement. By letter filed October 10, 2000, UP advised that it concurs with the extension request.³

¹ The May 15 decision also imposed environmental conditions that required UP to: (a) consult with the National Geodetic Survey (NGS) and provide NGS with 90 days' notice prior to disturbing or destroying eight geodetic markers identified on the line; (b) consult with the California Department of Toxic Substances Control and comply with the Department's request to complete a Preliminary Endangerment Assessment covering the line prior to commencing salvage operations; and (c) consult with the Resources Board of the State of California prior to conducting salvage operations to determine if permits are required under California statutes.

² Because the NITU is scheduled to expire on November 12, 2000, a 180-day extension would run until May 11, 2001.

³ The official filing date of the City's extension request was October 13, 2000, but UP was clearly aware of it earlier than that, as reflected by its letter-response filed on October 10, 2000.

The negotiation period under the NITU will be extended for 180 days to May 12, 2001. An extension of the negotiation period will promote the establishment of trails and rail banking consistent with the National Trails System Act, 16 U.S.C. 1247 (Trails Act). The purpose of the Trails Act is to preserve rail corridors for possible reactivation of rail service by permitting and encouraging their interim trail use as recreational trails. See Policy Statement on Rails to Trails Conversions, Ex Parte No. 274 (Sub-No. 13B) (ICC served Feb. 5, 1990).⁴

This decision will not significantly affect either the quality of the human environment or the conservation of energy resources.

It is ordered:

1. The negotiating period under the NITU is extended to May 12, 2001.
2. The decision is effective on its service date.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams
Secretary

⁴ Although the request slightly exceeds the customary request of 180 days, the Board has granted such requests in the past. See, e.g., Southern Pacific Transportation Company--Abandonment Exemption--In Jackson, Victoria and Wharton Counties, TX, Docket No. AB-12 (Sub-No. 162X) (STB served May 29, 1996).